



NAVAJO NATION ENVIRONMENTAL PROTECTION AGENCY

Office of the Executive Director

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Dr. Joe Shirley, Jr.
PRESIDENT

Ben Shelly
VICE PRESIDENT

TITLE V PERMIT TO OPERATE

<u>PERMIT #:</u>	<u>FACILITY NAME:</u>	<u>LOCATION:</u>	<u>COUNTY:</u>	<u>STATE:</u>
NN-ROP-05-06	NAVAJO GENERATING STATION	PAGE	COCONINO	AZ
<u>ISSUE DATE:</u>	<u>EXPIRATION DATE:</u>	<u>AFS PLANT ID:</u>	<u>PERMITTING AUTHORITY:</u>	
07/03/2008	07/03/2013	04-005-N0423	NNEPA	

ACTION/STATUS: PART 71 OPERATING PERMIT ISSUANCE

Robert K. Talbot, Plant Manager
Navajo Generating Station
P.O. Box 850
Page, Arizona 86040

Re: Issuance of Title V Operating Permit to Navajo Generating Station

Dear Mr. Talbot:

In accordance with the provisions of Title V of the Clean Air Act; 40 CFR Part 71; Navajo Nation Operating Permit Regulations §§ 404, 405(c)-(e), and subpart VI; 2004 Delegation Agreement § VI(1) and (7); 2006 Supplemental Delegation Agreement; and all other applicable rules and regulations, the Permittee, Navajo Generating Station, is authorized to operate air emission units and to conduct other air pollutant-emitting activities in accordance with the permit conditions listed in this permit.

Terms and conditions not otherwise defined in this permit have the same meaning as assigned to them in the referenced regulations. All terms and conditions of the permit are enforceable under the Clean Air Act by U.S. EPA, as well as by persons as defined in the Clean Air Act, and by NNEPA only as provided in the VCA.

This permit is valid for a period of five (5) years and shall expire at midnight on the date five (5) years after the date of issuance unless a timely and complete renewal application has been submitted at least 6 months but not more than 18 months prior to the date of expiration. The permit number cited above should be referenced in future correspondence regarding this facility.

JUL - 3 2008

Date

Stephen B. Etsitty
Executive Director

Navajo Nation Environmental Protection Agency

Abbreviations and Acronyms

Administrator	Administrator of the U.S. EPA
AR	Acid Rain
ARP	Acid Rain Program
CAA	Clean Air Act [42 U.S.C. Section 7401 et seq.]
CAM	Compliance Assurance Monitoring
CEMS	Continuous Emission Monitoring System
CFR	Code of Federal Regulations
COFA	Close-Coupled Overfire Air
COMS	Continuous Opacity Monitoring System
DC	Dust Collector
EIP	Economic Incentives Program
ESP	Electro Static Precipitator
FGD	Flue Gas Desulfurization
gal	gallon
HAP	Hazardous Air Pollutant
hr	hour
Id. No.	Identification Number
kg	kilogram
lb	pound
MACT	Maximum Achievable Control Technology
MVAC	Motor Vehicle Air Conditioner
Mg	megagram
MMBtu	million British Thermal Units
MW	Megawatts
mo	month
NESHAP	National Emission Standards for Hazardous Air Pollutants
NNEPA	Navajo Nation Environmental Protection Agency
NNOPR	Navajo Nation Operating Permit Regulations
NO _x	Nitrogen Oxides
NSPS	New Source Performance Standards
NSR	New Source Review
PM	Particulate Matter
PM-10	Particulate matter less than 10 microns in diameter
ppm	parts per million
PSD	Prevention of Significant Deterioration
PTE	Potential to Emit
psia	pounds per square inch absolute
RMP	Risk Management Plan
SNAP	Significant New Alternatives Program
SO ₂	Sulfur Dioxide
TSP	Total Suspended Particulate
US EPA	United States Environmental Protection Agency
VCA	Voluntary Compliance Agreement
VOC	Volatile Organic Compounds

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Attachment A

Phase II Acid Rain Permit Renewal

I. Source Identification

- Managing Participant Name: Salt River Project Agricultural Improvement and Power District (SRP)*
- Managing Participant Mailing Address: P.O. Box 52025, PAB 352
Phoenix, Arizona 85072-2025

*Note: This facility is co-owned by 6 entities. SRP is listed as the managing participant in this permit since they act as the facility operator, and have accepted the responsibility to obtain environmental permits for Navajo Generating Station, including an Acid Rain permit and Part 71 Permit. In addition to SRP, the other 5 co-owners of this facility are:

1. Los Angeles Department of Water and Power (LADWP)
2. Arizona Public Service Company (APS)
3. Tucson Electric Power (TEP)
4. Nevada Power Company (NPC)
5. U.S. Bureau of Reclamation (USBR)

- Plant Name: Navajo Generating Station
- Plant Location: 5 miles east of Page, AZ off U.S. Highway 98
Page, Arizona
- County: Coconino, Arizona
- EPA Region: 9
- Reservation: Navajo Nation
- Tribe: Navajo
- Company Contact: Paul Ostapuk Phone: (928) 645-6577
- Responsible Official: Robert K. Talbot Phone: (928) 645-6217
- EPA Contact: Roger Kohn Phone: (415) 972-3973
- Tribal Contacts: Eugenia Quintana Phone: (928) 871-7800
Charlene Nelson Phone: (928) 729-4247
- SIC Code: 4911
- AFS Plant Identification Number: 04-005-N0423
- Description of Process: The facility is 2,250 Net Megawatts coal fired power plant.
- Significant Emission Units:

Unit ID/ Stack ID	Unit Description	Maximum Capacity	Commenced Construction Date	Control Method
U1/ Stack S1	One (1) pulverized coal-fired boiler, using No. 2 fuel oil for ignition fuel. Stack S1 is equipped with SO ₂ and NO _x CEMS, and a COMS.	7,725 MBtu/hr; 750 Net MW	1970	COFA; FGD system SCBR1 (1999); ESP1
U2/ Stack S2	One (1) pulverized coal-fired boiler, using No. 2 fuel oil for ignition fuel. Stack S2 is equipped with SO ₂ and NO _x CEMS, and a COMS.	7,725 MBtu/hr; 750 Net MW	1970	COFA; FGD system SCBR2 (1998); ESP2

Unit ID/ Stack ID	Unit Description	Maximum Capacity	Commenced Construction Date	Control Method
U3/ Stack S3	One (1) pulverized coal-fired boiler, using No. 2 fuel oil for ignition fuel. Stack S3 is equipped with SO ₂ and NO _x CEMS, and a COMS.	7,725 MBtu/hr; 750 Net MW	1970	COFA; FGD system SCBR3 (1997); ESP3
AUX A	One (1) auxiliary boiler; using No. 2 fuel oil as fuel	308 MMBtu/hr	1970	N/A
AUX B	One (1) auxiliary boiler; using No. 2 fuel oil as fuel	308 MMBtu/hr	1970	N/A
Coal Handling Operations				
CT1	One (1) railcar unloading operation	10,000 tons/hr	1970	N/A
L1 - L12	Twelve (12) hopper feeders	2,400 tons/hr (total)	1970	N/A
BC-1 through BC-4	Four (4) conveyors to the yard surge bin	1,800 tons/hr (each)	1970	DC-8
BC-4A	One (1) conveyor to the batch weight system	100 tons/hr	1970	DC-8
BFD-5A, BC-5	Two (2) reclaim conveyors	1,800 tons/hr (each)	1970	DC-8
BC-6	One (1) conveyor to the yard surge bin	1,500 tons/hr	1970	DC-8
BC-6A through BC-6C	Three (3) conveyors to the stacker/reclaimer	1,800 tons/hr (each)	1970	N/A
BC-7	One (1) conveyor to the emergency reclaim hopper	1,500 tons/hr	1970	N/A
YSB-1	One (1) yard surge bin	1,800 tons/hr	1970	DC-8
BC-8A BC-8B	Two (2) conveyors to plant surge bin	1,500 tons/hr (each)	1970	DC-8
PSB-1	One (1) plant surge bin	3,000 tons/hr	1970	DC-5
BC-9A BC-9B	Two (2) conveyors to the coal silos for boilers U1 and U2	1,500 tons/hr (each)	1970	DC-5
BC-10A BC-10B	Two (2) conveyors to the coal silos for boiler U3	1,500 tons/hr (each)	1970	DC-5
CC-1A through CC-9A; CC-1B through CC-9B	Three (3) enclosed cascading conveying systems to the coal storage silos for boilers U1, U2, and U3	1,500 tons/hr (each)	1970	DC-1 through DC-4, DC-6, and DC-7
Silos 1A through 1G	Seven (7) storage silos for boiler U1	3,000 tons/hr (each)	1970	DC-1, DC-2, and baghouse PR-1.
Silos 2A through 2G	Seven (7) storage silos for boiler U2	3,000 tons/hr (each)	1970	DC-3, DC-4, and baghouse PR-2.
Silos 3A through 3G	Seven (7) storage silos for boiler U3	3,000 tons/hr (each)	1970	DC-6, DC-7, and baghouse PR-3.
CS	Outdoor coal storage piles	3,300 tons/hr (total)	1970	water suppression
Limestone handling system associated with the FGD systems				
Unloading Bay A and B	Two (2) truck unloading operations	38 tons/hr (each)	1997	N/A
O-LSH- HOP-A	One (1) limestone unloading hopper	300 tons/hr	1997	DC-9
O-LSH- HOP-B	One (1) limestone unloading hopper	300 tons/hr	1997	DC-10

Unit ID/ Stack ID	Unit Description	Maximum Capacity	Commenced Construction Date	Control Method
O-LSH-FDR-A	One (1) conveyor	300 tons/hr	1997	DC-9
O-LSH-FDR-B	One (1) conveyor	300 tons/hr	1997	DC-10
O-LSH-CNV-A	One (1) conveyor	300 tons/hr	1997	DC-9
O-LSH-CNV-B	One (1) conveyor	300 tons/hr	1997	DC-10
O-LSH-SILO-A and B	Two (2) limestone storage silos	300 tons/hr (each)	1997	DC-11
O-LSP-FDR-A and B	Two (2) enclosed feeders to the slurry preparation system	36 tons/hr (each)	1997	N/A
O-LSP-CNV-A and B	Two (2) enclosed cleanout conveyors	5 tons/hr (each)	1997	N/A
O-LSP-MILL-A and B	Two (2) ball mills	36 tons/hr (each)	1997	N/A
LS	Limestone storage piles	600 tons/hr (total)	1997	water suppression
Fly ash handling system				
Silo 1	One (1) fly ash bin for boilers U1 and U2	46 tons/hr	1970	DC-TD and DC-S1/2
Silo 2	One (1) fly ash bin for boiler U3	46 tons/hr	1970	DC-S3
Silo 1 and 2 Loading	Two (2) partially enclosed fly ash truck loading operations	38 tons/hr (each)	1970	N/A
DWB-A through DWB-F	Six (6) bottom ash truck loading operations. The bottom ash is processed in a wet form	46 tons/hr (each)	1970	N/A
Soda ash/lime handling systems				
SAB-1A, SAB-2A, SAB-1B, SAB-2B	Four (4) soda ash storage bins	0.4 tons/hr (each)	1970	dust collector BH-6
LB-1 and LB-2	Two (2) lime storage bins	0.57 tons/hr (each)	1970	dust collector BH-7
Miscellaneous Operations				
	Six (6) cooling towers	813,000 gal/min (total)	1970	N/A
TR	Fugitive emissions from unpaved roads	N/A	1970	water suppression

II. Requirements for Specific Units

II.A. Acid Rain Requirements [40 CFR Parts 72, 73, and 75; Phase II Acid Rain Permit]

The permittee shall comply with the requirements listed in the attached acid rain permit renewal (see Attachment A).

II.B. Visibility Federal Implementation Plan Requirements [40 CFR § 52.145(d)]

1. Definitions. The following definitions apply to section II.B of this permit [40 CFR § 52.145(d)(1)]:
 - a. “Administrator” means the Administrator of EPA or his/her designee.
 - b. “Affected Unit(s)” means the steam-generating unit(s) at the Navajo Generating Station, all of which are subject to the emission limitation in section II.B(2) of this permit, that has accumulated at least 365 boiler operating days since the passage of the date defined in section II.B(6) of this permit.
 - c. “Boiler Operating Day” for each of the boiler units at the Navajo Generating Station is defined as a 24-hour calendar day (the period of time between 12:01 a.m. and 12:00 midnight in Page, Arizona) during which coal is combusted in that unit for the entire 24 hours.
 - d. “Owner or Operator” means the owner, participant in, or operator of the Navajo Generating Station to which this paragraph is applicable.
 - e. “Unit-Week of Maintenance” means a period of 7 days during which a fossil fuel-fired steam-generating unit is under repair, and no coal is combusted in the unit.
2. Emission limitation. No owner or operator shall discharge or cause the discharge of sulfur oxides into the atmosphere in excess of 42 ng/J [0.10 pound per million British thermal units (lb/MMBtu)] heat input [40 CFR § 52.145(d)(2)].
3. Compliance determination. Compliance with the emission limit in Condition II.B(2) of this permit shall be determined daily on a plant-wide rolling annual basis as follows [40 CFR § 52.145(d)(3)]:
 - a. For each boiler operating day at each steam generating unit subject to the emission limitation in Condition II.B(2) of this permit, the owner or operator shall record the unit’s hourly SO₂ emissions using the data from the continuous emission monitoring systems, required in Condition II.B(4) of this permit and the daily electric energy generated by the unit (in megawatt-hours) as measured by the megawatt-hour meter for the unit.
 - b. Compute the average daily SO₂ emission rate in ng/J (lb/MMBtu) following the procedures set out in Method 19, Appendix A, 40 CFR Part 60 in effect on October 3, 1991.

- c. For each boiler operating day for each affected unit, calculate the product of the daily SO₂ emission rate (computed according to Condition II.B(3)(b) of this permit) and the daily electric energy generated (recorded according to Condition II.B(3)(a) of this permit) for each unit.
 - d. For each affected unit, identify the previous 365 boiler operating days to be used in the compliance determination. Except as provided in Condition II.B(7) of this permit, all of the immediately preceding 365 boiler operating days will be used for compliance determinations.
 - e. Sum, for all affected units, the products of the daily SO₂ emission rate-electric energy generated (as calculated according to Condition II.B(3)(c) of this permit) for the boiler operating days identified in Condition II.B(3)(d) of this permit.
 - f. Sum, for all affected units, the daily electric energy generated (recorded according to Condition II.B(3)(a) of this permit) for the boiler operating days identified in Condition II.B(3)(d) of this permit.
 - g. Calculate the weighted plant-wide annual average SO₂ emission rate by dividing the sum of the products determined according to Condition II.B(3)(e) of this permit by the sum of the electric energy generated determined according to Condition II.B(3)(f) of this permit.
 - h. The weighted plant-wide annual average SO₂ emission rate shall be used to determine compliance with the emission limitation in Condition II.B(2) of this permit.
4. Continuous emission monitoring. The owner or operator shall install, maintain, and operate continuous emission monitoring systems to determine compliance with the emission limitation in Condition II.B(2) of this permit as calculated in Condition II.B(3) of this permit. This equipment shall meet the specifications in Appendix B of 40 CFR 60 in effect on October 3, 1991. The owner or operator shall comply with the quality assurance procedures for continuous emission monitoring systems found in Appendix F of 40 CFR 60 in effect on October 3, 1991 [40 CFR § 52.145(d)(4)].
5. Reporting requirements. For each steam generating unit subject to the emission limitation in Condition II.B(2) of this permit, the owner or operator [40 CFR § 52.145(d)(5)]:
- a. Shall furnish the Administrator written notification, on a quarterly basis, on emissions of SO₂, and either oxygen or carbon dioxide, according to the procedures found in 40 CFR § 60.7 in effect on October 3, 1991.
 - b. Shall furnish the Administrator written notification of the daily electric energy generated in megawatt-hours.

- c. Shall maintain records according to the procedures in 40 CFR § 60.7 in effect on October 3, 1991.
 - d. Shall notify the Administrator by telephone, or in writing, or electronic mail sent to r9.aeo@epa.gov, within one business day of any outage of the control system needed for compliance with the emission limitation in Condition II.B(2) of this permit and shall submit a follow-up written report within 30 days of the repairs stating how the repairs were accomplished and justifying the amount of time taken for the repairs.
- 6. Compliance dates. The requirements of Section II.B of this permit shall be applicable to all units at this facility beginning on August 19, 1999 [40 CFR § 52.145(d)(6)].
 - 7. Exclusion for catastrophic failure. In addition to the exclusion of periods allowed in Condition II.B(7) of this permit, any periods of emissions from an affected unit for which the Administrator finds that the control equipment or system for such unit is out of service because of catastrophic failure of the control system which occurred for reasons beyond the control of the owner or operators and could not have been prevented by good engineering practices will be excluded from the compliance determination. Events which are the consequence of lack of appropriate maintenance or of intentional or negligent conduct or omissions of the owner or operators or the control system design, construction, or operating contractors do not constitute catastrophic failure [40 CFR § 52.145(d)(10)].
 - 8. Equipment operation. The owner or operator shall optimally operate all equipment or systems needed to comply with the requirements of this paragraph consistent with good engineering practices to keep emissions at or below the emission limitation in Condition II.B(2) of this permit, and following outages of any control equipment or system the control equipment or system will be returned to full operation as expeditiously as practicable [40 CFR § 52.145(d)(11)].
 - 9. Maintenance scheduling. On March 16 of each year starting in 1993, the owner or operator shall prepare and submit to the Administrator a long-term maintenance plan for the Navajo Generating Station which accommodates the maintenance requirements for the other generating facilities on the Navajo Generating Station grid covering the period from March 16 to March 15 of the next year and showing at least 6 unit-weeks of maintenance for the Navajo Generating Station during the November 1 to March 15 period, except as provided in Condition II.B(10) of this permit. This plan shall be developed consistent with the criteria established by the Western Electric Coordinating Council of the North American Electric Reliability Council to ensure an adequate reserve margin of electric generating capacity. At the time that a plan is transmitted to the Administrator, the owner or operator shall notify the Administrator in writing if less than the full scheduled unit-weeks of maintenance were conducted for the period covered by the previous plan and shall furnish a written report stating how that year qualified for one of the exceptions identified in Condition II.B(10) of this permit [40 CFR § 52.145(d)(12)].
 - 10. Exceptions for maintenance scheduling. The owner or operator shall conduct a full 6 unit-weeks of maintenance in accordance with the plan required in

Condition II.B(9) of this permit unless the owner or operator can demonstrate to the satisfaction of the Administrator that a full 6 unit-weeks of maintenance during the November 1 to March 15 period should not be required because of the following [40 CFR § 52.145(d)(13)]:

- a. There is no need for 6 unit-weeks of scheduled periodic maintenance in the year covered by the plan;
 - b. The reserve margin on any electrical system served by the Navajo Generating Station would fall to an inadequate level, as defined by the criteria referred to in Condition II.B(9) of this permit.
 - c. The cost of compliance with this requirement would be excessive. The cost of compliance would be excessive when the economic savings to the owner or operator of moving maintenance out of the November 1 to March 15 period exceeds \$50,000 per unit-day of maintenance moved.
 - d. A major forced outage at a unit occurs outside of the November 1 to March 15 period, and necessary periodic maintenance occurs during the period of forced outage.
11. If the Administrator determines that a full 6 unit-weeks of maintenance during the November 1 to March 15 period should not be required, the owner or operator shall nevertheless conduct that amount of scheduled maintenance that is not precluded by the Administrator. Generally, the owner or operator shall make best efforts to conduct as much scheduled maintenance as practicable during the November 1 to March 15 period. [40 CFR § 52.145(d)(13)]

II.C. NSPS General Provisions

The following requirements apply to the operation, maintenance, and testing the affected facilities in the limestone handling system in accordance with 40 CFR Part 60, Subparts A and OOO (“Standards of Performance for Non-Metallic Mineral Processing Plants”):

1. All requests, reports, applications, submittals, and other communications to the NNEPA pursuant to 40 CFR Part 60 shall be submitted in duplicate to the EPA Region 9 office at the following address [40 CFR § 60.4(a)]:

Director, Air Division (Attn: AIR-1)
EPA Region IX
75 Hawthorne Street
San Francisco, CA 94105
2. Any owner or operator subject to the provisions of this part shall maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility; any malfunction of the air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device is inoperative [40 CFR § 60.7(b)].

3. The availability to the public of information provided to, or otherwise obtained by, the EPA Administrator under this permit shall be governed by 40 CFR § 2 (Information submitted voluntarily to the Administrator for the purposes of compliance with 40 CFR §§ 60.5 and 60.6 is governed by 40 CFR §§ 2.201 through § 2.213 and not by 40 CFR § 2.301.) [40 CFR § 60.9].
4. Compliance with the particulate matter standard listed in Conditions II.D(1)(a) and II.D(5) of this permit shall be determined in accordance with performance tests established by 40 CFR § 60.8, unless otherwise specified [40 CFR § 60.11(a)].
5. Compliance with the opacity standards listed in Conditions II.D(1)(b), II.D(2), II.D(3), II.D(5), and II.D(6) of this permit shall be determined by conducting observations in accordance with Reference Method 9 in Appendix A of 40 CFR § 60, any alternative method that is approved by the Administrator, or as provided in paragraph 40 CFR § 60.11(e)(5) [40 CFR § 60.11(b)].
6. The opacity standards in Conditions II.D(1)(b), II.D(2), II.D(3), and II.D(4) shall apply at all times except during periods of startup, shutdown, malfunction, and as otherwise provided in 40 CFR Part 60, Subpart OOO [40 CFR § 60.11(c)].
7. At all times, including periods of startup, shutdown, and malfunction, the permittee shall, to the extent practicable, maintain and operate the affected facilities including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source [40 CFR § 60.11(d)].
8. For the purpose of submitting compliance certifications or establishing whether or not a person has violated or is in violation of any standard in 40 CFR § 60, nothing in 40 CFR § 60 shall preclude the use, including the exclusive use, of any credible evidence or information, relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test or procedure had been performed [40 CFR § 60.11(g)].
9. No owner or operator subject to the provisions of 40 CFR § 60 shall build, erect, install, or use any article, machine, equipment or process, the use of which conceals an emission which would otherwise constitute a violation of an applicable standard. Such concealment includes, but is not limited to, the use of gaseous diluents to achieve compliance with an opacity standard or with a standard which is based on the concentration of a pollutant in the gases discharged to the atmosphere [40 CFR § 60.12].
10. With respect to compliance with all New Source Performance Standards (NSPS) of 40 CFR § 60, the permittee shall comply with the “General notification and reporting requirements” found in 40 CFR § 60.19 [40 CFR § 60.19].

11. The permittee shall provide written notification to NNEPA and US EPA or, if acceptable to NNEPA, US EPA and the permittee, electronic notification of any reconstruction of an affected facility, or any physical or operational change to an affected facility which may increase the emission rate of any air pollutant to which a standard applies, unless that change is specifically exempted under this permit or in 40 CFR § 60.14(e), in accordance with 40 CFR § 60.7 [40 CFR § 60.7(a)].

II.D. NSPS, Subpart OOO Requirements

The following requirements apply to the affected facilities in the limestone handling system in accordance with 40 CFR Part 60, Subpart OOO (“Standards of Performance for Non-Metallic Mineral Processing Plants”):

1. The permittee shall not cause to be discharged into the atmosphere from any transfer point on belt conveyors or from any other affected facility any stack emissions which [40 CFR § 60.672(a)]:
 - a. Contain particulate matter in excess of 0.05 g/dscm (0.022 gr/ dscf), and
 - b. Exhibit greater than 7 percent opacity.
2. The permittee shall not cause to be discharged into the atmosphere from any transfer point on belt conveyors or from any other affected facility any fugitive emissions which exhibit greater than 10 percent opacity [40 CFR § 60.672(b)].
3. The permittee shall not cause to be discharged into the atmosphere from any crusher, at which a capture system is not used, fugitive emissions which exhibit greater than 15 percent opacity [40 CFR § 60.672(c)].
4. Truck dumping of nonmetallic minerals into any screening operation, feed hopper or crusher is exempt from the requirements of this section [40 CFR § 60.672(d)].
5. If any transfer point on a conveyor belt or any other affected facility is enclosed in a building, then each enclosed affected facility must comply with the emission limits in Conditions II.D.1, II.D.2, and II.D.3, or the building enclosing the affected facility or facilities must comply with the following emission limits:
 - (i) The permittee shall not cause to be discharged into the atmosphere from any building enclosing any transfer point on a conveyor belt or any other affected facility any visible fugitive emissions except emissions from a vent as defined in 40 CFR § 60.671 [40 CFR § 60.672(e)(1)].
 - (ii) The permittee shall not cause to be discharged into the atmosphere from any vent of any building enclosing any transfer point on a conveyor belt or any other affected facility emissions which exceed the stack emissions limits in Condition II.D(1) [40 CFR § 60.672(e)(2)].
6. The permittee shall not cause to be discharged into the atmosphere from any baghouse that controls emissions from only an individual, enclosed storage bin,

stack emissions which exhibit greater than 7 percent opacity [40 CFR § 60.672(f)].

II.E. Monitoring and Testing Requirements

Pursuant to the First Reopening to Navajo Generating Station's first Part 71 Permit, issued on November 13, 2003, the permittee shall comply with the following:

1. Once per five year permit term, and at such other times as specified by NNEPA, the permittee shall conduct performance tests for particulate matter emissions from the exhaust stacks of baghouses DC-9, DC-10, and DC-11 using EPA Method 5 or Method 17, and furnish US EPA and NNEPA a written report of the results of such test. The tests shall be conducted at the maximum operating capacity of the facility being tested. Upon written request (Attn: AIR-5) from the permittee, NNEPA may approve the conducting of performance tests at a lower specified production rate. In addition to testing once per five year permit term, if during any 12 consecutive month period visible emissions are observed three times from any one baghouse, the permittee shall conduct a performance test on that baghouse within 120 days of the third observation. All observations of visible emissions by the permittee, US EPA, or NNEPA shall count toward the 12 month total [40 CFR § 71.6(a)(3)].
2. The permittee shall conduct a weekly visual emission survey of the exhaust stacks of baghouses DC-9, DC-10, and DC-11. The weekly survey shall be conducted while the equipment is operating, and during daylight hours, by a person certified in EPA Method 9 (Visual Determination of the Opacity of Emissions from Stationary Sources). If any visible emissions are observed, the permittee shall conduct an opacity test using EPA Method 9 within 24 hours while the equipment is operating in accordance with 40 CFR § 60.675 [40 CFR § 71.6(a)(3)].
3. For each visible emission observation or Method 9 opacity test, the permittee shall record and maintain the following records:
 - a. the date and time of the observation, and the name of the observer.
 - b. the unit ID number.
 - c. statement of whether visible emissions were detected, and if so, whether they were observed continuously or intermittently.
 - d. results of Method 9 test, if required.

II.F. Operational Flexibility

1. **Clean Air Act Section 502(b)(10) Changes** [40 CFR § 71.6(a)(13)(i)] [NNOPR § 404(A)]
 - a. The permittee may make Clean Air Act Section 502(b)(10) changes without applying for a permit revision if those changes do not cause the facility to exceed emissions allowable under this permit (whether

expressed as a rate of emissions or in terms of total emissions) and are not modifications under Title I of the Clean Air Act. This class of changes does not include:

- i. Changes that would violate applicable requirements; or
 - ii. Changes that would contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.
- b. For each proposed § 502(b)(10) change, the permittee shall provide written notification to the Director and the Administrator at least 7 days in advance of the proposed change. Such notice shall state when the change will occur and shall describe the change, any resulting emissions change, and any permit terms or conditions made inapplicable as a result of the change. The permittee shall attach each notice to its copy of this permit.
- c. Any permit shield provided in this permit shall not apply to any change made under this provision.

III. Facility-Wide or Generic Permit Requirements

Conditions in this section of the permit (Section III) apply to all emissions units located at the facility [See 40 CFR § 71.6(a)(1)].

III.A. Testing Requirements [40 CFR § 71.6(a)(3)]

In addition to the unit specific testing requirements derived from the applicable requirements for each individual unit contained in Section II of this permit, the permittee shall comply with the following generally applicable testing requirements as necessary to ensure that the required tests are sufficient for compliance purposes:

- 1. Submit to NNEPA a source test plan 30 days prior to any required testing. The source test plan shall include and address the following elements:
 - 1.0 Purpose of the test
 - 2.0 Source Description and Mode of Operation During Test
 - 3.0 Scope of Work Planned for Test
 - 4.0 Schedule/Dates
 - 5.0 Process Data to be Collected During Test
 - 6.0 Sampling and Analysis Procedures
 - 6.1 Sampling Locations
 - 6.2 Test Methods
 - 6.3 Analysis Procedures and Laboratory Identification
 - 7.0 Quality Assurance Plan
 - 7.1 Calibration Procedures and Frequency
 - 7.2 Sample Recovery and Field Documentation
 - 7.3 Chain of Custody Procedures
 - 7.4 QA/QC Project Flow Chart
 - 8.0 Data Processing and Reporting
 - 8.1 Description of Data Handling and QC Procedures
 - 8.2 Report Content

2. Unless otherwise specified by an applicable requirement or permit condition in Section II, all source tests shall be performed at maximum operating rates (90% to 110% of device design capacity).
3. Only regular operating staff may adjust the processes or emission control device parameters within two (2) hours before or during a compliance source test. All adjustments must be logged and a copy of the log submitted with the test report. No adjustments are to be made within two (2) hours before the start of the tests or during a test, if those adjustments are a result of consultation before or during the tests with source testing personnel, equipment vendors, or consultants. Such adjustments may render the source test invalid.
4. During each test run and for two (2) hours prior to the test and two (2) hours after the completion of the test, the permittee shall record the following information:
 - a. Visible emissions.
 - b. All parametric data which is required to be monitored in Section II for the emission unit being tested.
5. Each source test shall consist of at least three (3) valid test runs and the emission results shall be reported as the arithmetic average of all valid test runs and in the terms of the emission limit. There must be at least 3 valid test runs, unless otherwise specified.
6. Source test reports shall be submitted to NNEPA and U.S. EPA within 60 days of completing any required source test.

III.B. Recordkeeping Requirements [40 CFR § 71.6 (a)(3)(ii)]

In addition to the unit specific recordkeeping requirements derived from the applicable requirements for each individual unit and contained in Section II, the permittee shall comply with the following generally applicable recordkeeping requirements:

1. The permittee shall keep records of required monitoring information that include the following:
 - a. The date, place, and time of sampling or measurements;
 - b. The date(s) analyses were performed;
 - c. The company or entity that performed the analyses;
 - d. The analytical techniques or methods used;
 - e. The results of such analyses; and
 - f. The operating conditions as existing at the time of sampling or measurement.

2. The permittee shall retain records of all required monitoring data and support information for a period of at least 5 years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records, all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by this permit.
3. The permittee shall maintain a file of all measurements, including continuous monitoring system, monitoring device, and performance testing measurements; all continuous monitoring system performance evaluations; all continuous monitoring system or monitoring device calibration checks; adjustments and maintenance performed on these systems or devices; and all other information required by 40 CFR § 60 recorded in a permanent form suitable for inspection. The file shall be retained for at least five years following the date of such measurements, maintenance, reports and records [40 CFR § 71.6(a)(3)(ii), 40 CFR § 60.7(f)].

III.C. Reporting Requirements [40 CFR § 71.6 (a)(3)(iii)]

1. The permittee shall submit to NNEPA and EPA Region 9 reports of any monitoring required under 40 CFR § 71.6(a)(3)(i)(A), (B), or (C) each six month reporting period from January 1 to June 30 and from July 1 to December 31. All reports shall be submitted to NNEPA and US EPA and shall be postmarked by the 30th day following the end of the reporting period. All instances of deviations from permit requirements must be clearly identified in such reports. All required reports must be certified by a responsible official consistent with Condition III.C.4. of this permit.
 - a. A monitoring report under this section must include the following:
 - (i) The company name and address.
 - (ii) The beginning and ending dates of the reporting period.
 - (iii) The emissions unit or activity being monitored.
 - (iv) The emissions limitation or standard, including operational requirements and limitations (such as parameter ranges), specified in the permit for which compliance is being monitored.
 - (v) All instances of deviations from permit requirements, including those attributable to upset conditions as defined in the permit and including exceedances as defined under 40 CFR § 64, and the date on which each deviation occurred.
 - (vi) If the permit requires continuous monitoring of an emissions limit or parameter range, the report must include the total operating time of the emissions unit during the reporting period, the total duration of excess emissions or parameter exceedances during the reporting

period, and the total downtime of the continuous monitoring system during the reporting period.

- (vii) If the permit requires periodic monitoring, visual observations, work practice checks, or similar monitoring, the report shall include the total time when such monitoring was not performed during the reporting period and at the source's discretion either the total duration of deviations indicated by such monitoring or the actual records of deviations.
 - (viii) All other monitoring results, data, or analyses required to be reported by the applicable requirement.
 - (ix) The name, title, and signature of the responsible official who is certifying to the truth, accuracy, and completeness of the report.
 - b. Any report required by an applicable requirement that provides the same information described in paragraph III.C(1)(a)(i) through (ix) above shall satisfy the requirement under III.C(1)(a).
 - c. "Deviation," means any situation in which an emissions unit fails to meet a permit term or condition. A deviation is not always a violation. A deviation can be determined by observation or through review of data obtained from any testing, monitoring, or record keeping established in accordance with 40 CFR §§ 71.6(a)(3)(i) and (a)(3)(ii). For a situation lasting more than 24 hours, each 24-hour period is considered a separate deviation. Included in the meaning of deviation are any of the following:
 - (i) A situation when emissions exceed an emission limitation or standard;
 - (ii) A situation where process or emissions control device parameter values indicate that an emission limitation or standard has not been met;
 - (iii) A situation in which observations or data collected demonstrate noncompliance with an emission limitation or standard or any work practice or operating condition required by the permit.
 - (iv) A situation in which an exceedance, as defined in the compliance assurance plan (40 CFR § 64), occurs.
2. The permittee shall promptly report to the NNEPA and EPA Regional Office deviations from permit requirements, including those attributable to upset conditions as defined in this permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. "Prompt" is defined as follows:

- a. Any definition of "Prompt" or a specific timeframe for reporting deviations provided in an underlying applicable requirement as identified in this permit;
- b. Where the underlying applicable requirement does not define prompt or provide a timeframe for reporting deviations, reports of deviations will be submitted based on the following schedule:
 - (i) For emissions of a hazardous air pollutant or a toxic air pollutant (as identified in the applicable regulation) that continue for more than an hour in excess of permit requirements, the report must be made by telephone, verbal, or facsimile communication within 24 hours of the occurrence.
 - (ii) For emissions of any regulated pollutant excluding a hazardous air pollutant or a toxic air pollutant that continue for more than two hours in excess of permit requirements, the report must be made by telephone, verbal, or facsimile communication within 48 hours of the occurrence.
 - (iii) For all other deviations from permit requirements, the report shall be submitted with the semi-annual monitoring report required in paragraph III.C(1) of this permit.
3. If any of the Conditions in III.C(2)(b)(i) or (ii) of this permit are met, the source must notify NNEPA and US EPA by telephone, facsimile, or electronic mail sent to charlenenelson@navajo.org and EPA is r9.aeo@epa.gov, based on the timetable listed. A written notice, certified consistent with paragraph III.C(4) of this permit section must be submitted within 10 working days of the occurrence. All deviations reported under this section must also be identified in the 6-month report required under paragraph III.C(1) of this section.
4. Any application form, report, or compliance certification required to be submitted by this permit shall contain certification by a responsible official of truth, accuracy, and completeness. All certifications shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

III.D. Protection of Stratospheric Ozone [40 CFR § 82]

1. The permittee shall comply with the standards for labeling of products using ozone-depleting substances pursuant to 40 CFR § 82, Subpart E:
 - a. All containers in which a class I or class II substance is stored or transported, all products containing a class I substance, and all products directly manufactured with a Class I substance must bear the required warning statement if it is being introduced into interstate commerce pursuant to 40 CFR § 82.106.

- b. The placement of the required warning statement must comply with the requirements pursuant to 40 CFR § 82.108.
 - c. The form of the label bearing the required warning statement must comply with the requirements pursuant to 40 CFR § 82.110.
 - e. No person may modify, remove, or interfere with the required warning statement except as described in 40 CFR § 82.112.
- 2. The permittee shall comply with the standards for recycling and emissions reduction pursuant to 40 CFR § 82, Subpart F, except as provided for motor vehicle air conditioners (MVACs) in Subpart B:
 - a. Persons opening appliances for maintenance, service, repair, or disposal must comply with the required practices pursuant to 40 CFR § 82.156.
 - b. Equipment used during maintenance, service, repair, or disposal of appliances must comply with the standards for recycling and recovery equipment pursuant to 40 CFR § 82.158.
 - c. Persons performing maintenance, service, repair, or disposal of appliances must be certified by an approved technician certification program pursuant to 40 CFR § 82.161.
 - d. Persons disposing of small appliances, MVACs, and MVAC-like appliances must comply with recordkeeping requirements pursuant to 40 CFR § 82.166. ("MVAC-like appliance" as defined at 40 CFR § 82.152)
 - e. Persons owning commercial or industrial process refrigeration equipment must comply with the leak repair requirements pursuant to 40 CFR § 82.156.
 - f. Owners/operators of appliances normally containing 50 or more pounds of refrigerant must keep records of when the refrigerant was purchased and added to such appliances pursuant to 40 CFR § 82.166.
- 3. If the permittee manufactures, transforms, destroys, imports, or exports a Class I or Class II substance, the permittee is subject to all the requirements as specified in 40 CFR § 82, Subpart A, Production and Consumption Controls.
- 4. If the permittee performs a service on motor (fleet) vehicles when this service involves ozone-depleting substance refrigerant (or regulated substitute substance) in the MVAC, the permittee is subject to all the applicable requirements as specified in 40 CFR § 82, Subpart B, Servicing of Motor Vehicle Air Conditioners.

The term "motor vehicle" as used in Subpart B does not include a vehicle in which final assembly of the vehicle has not been completed. The term "MVAC" as used in Subpart B does not include the air-tight sealed refrigeration system

used as refrigerated cargo, or system used on passenger buses using HCFC-22 refrigerant.

5. The permittee shall be allowed to switch from any ozone-depleting substance to any alternative that is listed in the Significant New Alternatives Program (SNAP) promulgated pursuant to 40 CFR § 82, Subpart G.

III.E. Asbestos from Demolition and Renovation [40 CFR § 61, Subpart M]

The permittee shall comply with the requirements of Sections 61.140 through 61.157 of the National Emission Standard for Asbestos for all demolition and renovation projects [40 CFR § 61, Subpart M].

III.F. Compliance Schedule [40 CFR §§ 71.5(c)(8)(iii) and 71.6(c)(3)]

1. For applicable requirements with which the source is in compliance, the source will continue to comply with such requirements.
2. For applicable requirements that will become effective during the permit term, the source shall meet such requirements on a timely basis.

IV. Title V Administrative Requirements

IV.A. Fee Payment [NNOPR Subpart VI] [40 CFR § 71.6(a)(7) and § 71.9]

1. The permittee shall pay an annual permit fee in accordance with the procedures outlined below. [NNOPR Subpart VI §§ 603(A) and (B)]
 - a. The permittee shall pay the annual permit fee by April 1 of each year.
 - b. Fee payments shall be in remitted in the form of a money order or certified check made payable to the Navajo Nation Environmental Protection Agency.
 - c. The permittee shall send the fee payment to:

Navajo Nation EPA Air Quality Control Program
Operating Permit Program
P.O. Box 529
Fort Defiance, AZ 86504
2. The permittee shall submit a fee calculation worksheet form with the annual permit fee by April 1 of each year. Calculations of actual or estimated emissions and calculation of the fees owed shall be computed on the fee calculation worksheets provided by the EPA. Fee payment of the full amount must accompany each fee calculation worksheet. [NNOPR Subpart VI § 603(A)]
3. The fee calculation worksheet shall be certified by a responsible official consistent with 40 CFR § 71.5(d). [40 CFR § 71.6(a)(7) and § 71.9(e)(3)]
4. Basis for calculating annual fee:

The annual emissions fee shall be calculated by multiplying the total tons of actual emissions of all fee pollutants emitted from the source by the applicable emissions fee (in dollars/ton) in effect at the time of calculation. Emissions of any regulated air pollutant that already are included in the fee calculation under a category of regulated pollutant, such as a federally listed hazardous air pollutant that is already accounted for as a VOC or as PM₁₀, shall be counted only once in determining the source's actual emissions. [NNOPR Subpart VI §§ 602(A) and (B)(1)]

- a. "Actual emissions" means the actual rate of emissions in tpy of any fee pollutant emitted from a part 71 source over the preceding calendar year. Actual emissions shall be calculated using each emissions unit's actual operating hours, production rates, in-place control equipment, and types of materials processed, stored, or combusted during the preceding calendar year. Actual emissions shall not include emissions of any one fee pollutant in excess of 4,000 TPY, or any emissions that come from insignificant activities [NNOPR Subpart I § 102(5)].
 - b. Actual emissions shall be computed using methods required by the permit for determining compliance, such as monitoring or source testing data [40 CFR § 71.6(a)(7) and § 71.9(e)(2)].
 - c. If actual emissions cannot be determined using the compliance methods in the permit, the permittee shall use other federally recognized procedures [40 CFR § 71.6(a)(7) and § 71.9(e)(2)].
 - d. The term "fee pollutant" is defined in NNOPR Subpart I § 102(24).
 - e. The term "regulated air pollutant" is defined in NNOPR Subpart I § 102(50), except that for purposes of this permit the term does not include any pollutant that is regulated solely pursuant to 4 N.N.C. § 1121 nor does it include any hazardous air pollutant designated by the Director pursuant to 4 N.N.C. § 1126(B).
 - f. The permittee should note that the applicable fee is revised each year to account for inflation, and it is available from NNEPA starting on March 1 of each year.
 - g. The total annual fee due shall be the greater of the applicable minimum fee and the sum of subtotal annual fees for all fee pollutants emitted from the source. [NNOPR Subpart VI § 602(B)(2)]
5. The permittee shall retain, in accordance with the provisions of 40 CFR § 71.6(a)(3)(ii), all fee calculation worksheets and other emissions-related data used to determine fee payment for 5 years following submittal of fee payment. Emission-related data include, for example, emissions-related forms provided by NNEPA and used by the permittee for fee calculation purposes, emissions-related spreadsheets, and records of emissions monitoring data and related support

information required to be kept in accordance with 40 CFR § 71.6(a)(3)(ii) [40 CFR § 71.6(a)(7) and § 71.9(i)].

6. Failure of the permittee to pay fees in a timely manner shall subject the permittee to assessment of penalties and interest in accordance with NNEPR Subpart VI § 603(C).
7. When notified by NNEPA of underpayment of fees, the Permittee shall remit full payment within 30 days of receipt of notification [40 CFR § 71.9(j)(2)].
8. A Permittee who thinks an NNEPA assessed fee is in error and wishes to challenge such fee, shall provide a written explanation of the alleged error to NNEPA along with full payment of the NNEPA assessed fee [CFR § 71.9(j)(3)].

IV.B. Blanket Compliance Statement [40 CFR §§ 71.6(a)(6)(i) and (ii), and Sections 113(a) and 113(e)(1) of the Clean Air Act, and 40 CFR § 51.212, § 52.12, § 52.33, § 60.11(g), and § 61.12]

1. The permittee must comply with all conditions of this Part 71 permit. Any permit noncompliance, including, but not limited to, violation of any applicable requirement; any permit term or condition; any fee or filing requirement; any duty to allow or carry out inspection, entry, or monitoring activities; or any regulation or order issued by the permitting authority pursuant to this part constitutes a violation of the Clean Air Act and is grounds for enforcement action; permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit [40 CFR §§ 71.6(a)(6)(i) and (ii)].
2. Determinations of deviations, continuous or intermittent compliance status, or violations of this permit, are not limited to the applicable testing or monitoring methods required by the underlying regulations or this permit; other credible evidence (including any evidence admissible under the Federal Rules of Evidence) must be considered in such determinations. [Section 113(a) and 113(e)(1) of the Clean Air Act, 40 CFR § 51.212, § 52.12, § 52.33, § 60.11(g), and § 61.12]

IV.C. Compliance Certifications [40 CFR § 71.6(c)(5)]

1. The permittee shall submit to NNEPA and US EPA Region 9 a certification of compliance with permit terms and conditions, including emission limitations, standards, or work practices, postmarked by January 30 of each year and covering the previous calendar year. The compliance certification shall be certified as to truth, accuracy, and completeness by the permit-designated responsible official consistent with Section III.C.4 of this permit [40 CFR § 71.6(c)(5)].
2. The certification shall include the following:

- a. Identification of each permit term or condition that is the basis of the certification.
- b. Identification of the method(s) or other means used for determining the compliance status of each term and condition during the certification period, and whether such methods or other means provide continuous or intermittent data.

If necessary, the owner or operator also shall identify any other material information that must be included in the certification to comply with Section 113(c)(2) of the Clean Air Act, which prohibits knowingly making a false certification or omitting material information.

- c. The compliance status of each term and condition of the permit for the period covered by the certification based on the method or means designated above. The certification shall identify each deviation and take it into account in the compliance certification.
- d. Whether compliance with each permit term was continuous or intermittent.

IV.D. Duty to Provide and Supplement Information [40 CFR § 71.6(a)(6)(v), 40 CFR § 71.5(b)]

The permittee shall furnish to NNEPA and US EPA Region 9, within a reasonable time, any information that NNEPA and US EPA Region 9 may request in writing to determine whether cause exists for modifying, revoking, and reissuing, or terminating the permit, or to determine compliance with the permit. Upon request, the permittee shall also furnish to NNEPA and US EPA Region 9 copies of records that are required to be kept pursuant to the terms of the permit, including information claimed to be confidential. Information claimed to be confidential should be accompanied by a claim of confidentiality according to the provisions of 40 CFR § 2, Subpart B. The permittee, upon becoming aware that any relevant facts were omitted or incorrect information was submitted in the permit application, shall promptly submit such supplementary facts or corrected information. The permittee shall also provide additional information as necessary to address any requirements that become applicable to the facility after this permit is issued.

IV.E. Submissions [40 CFR § 71.5(d), § 71.6, and § 71.9]

Any document required to be submitted with this permit shall be certified by a responsible official as to truth, accuracy, and completeness. Such certifications shall state that based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. All documents required to be submitted, including reports, test data, monitoring data, notifications, compliance certifications, fee calculation worksheets, and applications for renewals and permit modifications shall be submitted to NNEPA and US EPA Region 9:

Navajo Nation Air Quality Control Program
Operating Permit Program
P.O. Box 529
Fort Defiance, AZ 86504

and
Director, Air Division (Attn: AIR-1)
EPA Region IX
75 Hawthorne Street
San Francisco, CA 94105

IV.F. Severability Clause [40 CFR § 71.6(a)(5)]

The provisions of this permit are severable, and in the event of any challenge to any portion of this permit, or if any portion is held invalid, the remaining permit conditions shall remain valid and in force.

IV.G. Permit Actions [40 CFR § 71.6(a)(6)(iii)]

This permit may be modified, revoked, reopened, and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

IV.H Administrative Permit Amendments [40 CFR § 71.7(d)] [NNOPR § 405(C)]

The permittee may implement the changes outlined in subparagraphs (1) through (5) below immediately upon submittal of the request for the administrative revision. The permittee may request the use of administrative permit amendment procedures for a permit revision that:

1. Corrects typographical errors.
2. Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source.
3. Requires more frequent monitoring or reporting by the permittee.
4. Allows for a change in ownership or operational control of a source where the NNEPA determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the NNEPA;
5. Incorporates into the Part 71 permit the requirements from preconstruction review permits authorized under an EPA-approved program, provided that such a program meets procedural requirements substantially equivalent to the requirements of 40 CFR § 71.7 and § 71.8 that would be applicable to the change if it were subject to review as a permit modification, and compliance requirements substantially equivalent to those contained in 40 CFR § 71.6.
6. Incorporates any other type of change which NNEPA has determined to be similar to those listed above in subparagraphs (1) through (5).

IV.I. Minor Permit Modifications [40 CFR § 71.7(e)(1)] [NNOPR § 405(D)]

1. The permittee may request the use of minor permit modification procedures only for those modifications that:
 - a. Do not violate any applicable requirement.
 - b. Do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit.
 - c. Do not require or change a case-by-case determination of an emissions limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis.
 - d. Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include:
 - i. A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I; and
 - ii. An alternative emissions limit approved pursuant to regulations promulgated under Section 112(i)(5) of the Clean Air Act.
 - e. Are not modifications under any provision of Title I of the Clean Air Act.
 - f. Are not required to be processed as a significant modification.
2. Notwithstanding the list of changes eligible for minor permit modification procedures in paragraph (1) above, minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in an applicable implementation plan or in applicable requirements promulgated by EPA.
3. An application requesting the use of minor permit modification procedures shall meet the requirements of 40 CFR § 71.5(c) and shall include the following:
 - (i) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;
 - (ii) The source's suggested draft permit;
 - (iii) Certification by a responsible official, consistent with 40 CFR § 71.5(d), that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used; and
 - (iv) Completed forms for the permitting authority to use to notify affected States as required under 40 CFR § 71.8.

- (v) If the requested permit revision would affect existing compliance plans or schedules, related progress reports, or certification of compliance requirements, and an outline of such effects.
- 4. The permittee may make the change proposed in its minor permit modification application immediately after submittal of such application. After the permittee makes the change allowed by the preceding sentence, and until the Director takes any of the actions specified in NNOPR § 405(D)(6) (a) through (c), the permittee must comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this time period, the permittee need not comply with the existing permit terms and conditions it seeks to modify. However, if the permittee fails to comply with its proposed permit terms and conditions during this period, the existing permit terms and conditions it seeks to modify may be enforced against it.
- 5. The permit shield under 40 CFR § 71.6(f) may not extend to minor permit modifications [See 40 CFR § 71.7(e)(1)(vi)].

IV.J. Group Processing of Minor Permit Modifications [40 CFR § 71.7(e)(2)]

- 1. Group processing of modifications by EPA may be used only for those permit modifications:
 - a. That meet the criteria for minor permit modification procedures under paragraphs IV.I.1 of this permit; and
 - b. That collectively are below the threshold level of 10 percent of the emissions allowed by the permit for the emissions unit for which the change is requested, 20 percent of the applicable definition of major source in 40 CFR § 71.2, or 5 tons per year, whichever is least.
- 2. An application requesting the use of group processing procedures shall be submitted to EPA, shall meet the requirements of 40 CFR § 71.5(c), and shall include the following:
 - a. A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs.
 - b. The source's suggested draft permit.
 - c. Certification by a responsible official, consistent with 40 CFR § 71.5(d), that the proposed modification meets the criteria for use of group processing procedures and a request that such procedures be used.
 - d. A list of the source's other pending applications awaiting group processing, and a determination of whether the requested modification, aggregated with these other applications, equals or exceeds the threshold set under Condition IV.(J)(1)(b) above.

- e. Completed forms for the permitting authority to use to notify affected States as required under 40 CFR § 71.8.
- 3. The source may make the change proposed in its minor permit modification application immediately after it files such application. After the source makes the change allowed by the preceding sentence, and until the permitting authority takes any of the actions authorized by 40 CFR § 71.7(e)(1)(iv)(A) through (C), the source must comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.
- 4. The permit shield under 40 CFR § 71.6(f) may not extend to group processing of minor permit modifications [See 40 CFR § 71.7(e)(1)(vi)].

IV.K. Significant Permit Modifications [40 CFR § 71.7(e)(3)] [NNOPR § 405(E)]

- 1. The permittee must request the use of significant permit modification procedures for those modifications that:
 - a. Do not qualify as minor permit modifications or as administrative amendments.
 - b. Are significant changes in existing monitoring permit terms or conditions.
 - c. Are relaxations of reporting or recordkeeping permit terms or conditions.
- 2. Nothing herein shall be construed to preclude the permittee from making changes consistent with Part 71 that would render existing permit compliance terms and conditions irrelevant.
- 3. The permittee must meet all requirements of Part 71 for applications for significant permit modifications. For the application to be determined complete, the permittee must supply all information that is required by 40 CFR § 71.5(c) for permit issuance and renewal, but only that information that is related to the proposed change [See 40 CFR §§ 71.7(e)(3)(ii) and 40 CFR § 71.5(a)(2)].

IV.L. Reopening for Cause [40 CFR § 71.7(f)]

NNEPA shall reopen and revise the permit prior to expiration under any of the following circumstances:

- 1. Additional applicable requirements under the Act become applicable to a major Part 71 source with a remaining permit term of 3 or more years.
- 2. Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval by the Administrator, excess emissions offset plans shall be deemed to be incorporated into the permit.

3. NNEPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.
4. NNEPA determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

IV.M. Property Rights [40 CFR § 71.6(a)(6)(iv)]

This permit does not convey any property rights of any sort, or any exclusive privilege.

IV.N. Inspection and Entry [40 CFR § 71.6(c)(2)]

Upon presentation of credentials and other documents as may be required by law, the permittee shall allow authorized representatives from NNEPA and US EPA to perform the following:

1. Enter upon the permittee's premises where a Part 71 source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and
4. As authorized by the Clean Air Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

IV.O. Emergency Provisions [40 CFR § 71.6(g)]

1. In addition to any emergency or upset provision contained in any applicable requirement, the permittee may seek to establish that noncompliance with a technology-based emission limitation under this permit was due to an emergency. To do so, the permittee shall demonstrate the affirmative defense of emergency through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. an emergency occurred and that the permittee can identify the cause(s) of the emergency;
 - b. the permitted facility was at the time being properly operated;
 - c. during the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emissions standards, or other requirements in this permit; and
 - d. the permittee submitted notice of the emergency to EPA within 2 working

days of the time when emissions limitations were exceeded due to the emergency. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken. This notice fulfills the requirements of Condition III.C(2) of this permit.

- e. In any enforcement preceding the permittee attempting to establish the occurrence of an emergency has the burden of proof.
2. An "emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emissions limitation under the permit due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

IV.P. Transfer of Ownership or Operation [40 CFR § 71.7(d)(1)(iv)]

A change in ownership or operational control of this facility may be treated as an administrative permit amendment if the NNEPA determines no other change in this permit is necessary and provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to NNEPA.

IV.Q. Off Permit Changes [40 CFR § 71.6(a)(12)] [NNOPR § 404(B)]

The permittee is allowed to make certain changes without a permit revision, provided that the following requirements are met:

1. Each change is not addressed or prohibited by this permit;
2. Each change must comply with all applicable requirements and may not violate any existing permit term or condition;
3. Changes under this provision may not include changes or activities subject to any requirement under Title IV or that are modifications under any provision of Title I of the Clean Air Act;
4. The permittee must provide contemporaneous written notice to NNEPA and US EPA Region 9 of each change, except for changes that qualify as insignificant activities under 40 CFR § 71.5(c)(11). The written notice must describe each change, the date of the change, any change in emissions, pollutants emitted and any applicable requirements that would apply as a result of the change;
5. The permit shield does not apply to changes made under this provision; and
6. The permittee must keep a record describing all changes that result in emissions of any regulated air pollutant subject to any applicable requirement not otherwise regulated under this permit, and the emissions resulting from those changes.

IV.R. Permit Expiration and Renewal [40 CFR Sections 71.5(a)(1)(iii), 71.6(a)(11), 71.7(b), 71.7(c)(1)(i) and (ii), and 71.8(d)]

1. This permit shall expire upon the earlier occurrence of the following events:
 - a. up to twelve (12) years elapses from the date of issuance to a solid waste incineration unit combusting municipal waste subject to standards under section 129 of the Clean Air Act; or
 - b. for sources other than those identified in subparagraph IV.R(1)(a) above, five (5) years elapses from the date of issuance; or
 - c. the source is issued a Part 70 permit by NNEPA, provided that EPA has granted the Navajo Nation treatment as a state and primacy for a Part 70 program and that NNEPA issues the permit consistent with the VCA.
2. Expiration of this permit terminates the permittee's right to operate unless a timely and complete permit renewal application has been submitted on or before a date 6 months, but not more than 18 months, prior to the date of expiration of this permit.
3. If the permittee submits a timely and complete permit application for renewal is consistent with 40 CFR § 71.5(a)(2), but the permitting authority has failed to issue or deny the renewal permit, then the permit shall not expire until the renewal permit has been issued or denied and any permit shield granted pursuant to 40 CFR § 71.6(f) may extend beyond the original permit term until renewal.
4. The permittee's failure to have a Part 71 permit is not a violation of this part until NNEPA takes final action on the permit renewal application. This protection shall cease to apply if, subsequent to the completeness determination, the permittee fails to submit any additional information identified as being needed to process the application by the deadline specified in writing by NNEPA.
5. Renewal of this permit is subject to the same procedural requirements that apply to initial permit issuance, including those for public participation, affected State, and tribal review.
6. The application for renewal shall include the current permit number, description of permit revisions and off-permit changes that occurred during the permit term, any applicable requirements that were promulgated and not incorporated into the permit during the permit term, and other information required by the application form.

IV.S. Additional Permit Conditions [Voluntary Compliance Agreement, Article 6]

This permit is issued pursuant to the Voluntary Compliance Agreement between the permittee and the Navajo Nation. The permittee shall comply with the terms of this permit and shall be subject to enforcement of the permit by the Navajo Nation EPA, pursuant to the terms of the Voluntary Compliance Agreement. The permittee's agreement to comply is effective upon the permittee's written acceptance of the permit and expires at the end of the permit term, unless the permit is renewed. The permittee's

agreement to comply may be withdrawn during the permit term only if the Voluntary Compliance Agreement is terminated or expires as provided in that Agreement.

IV.T. Part 71 Permit Enforcement [Voluntary Compliance Agreement, Section 5.4.5; 40 CFR § 71.12]

1. The Navajo Nation has the authority to:
 - a. Develop compliance plans and schedules of compliance;
 - b. Conduct compliance and monitoring activities, including review of monitoring reports and compliance certifications, inspections, audits, conducting and/or reviewing stack tests, and issuing requests for information either before or after a violation is identified; and
 - c. Conduct enforcement-related activities, including issuance of notices, findings, and letters of violation, and development of cases up to, but not including, the filing of a complaint or order.
2. Violations of any applicable requirement; any permit term or condition; any fee or filing requirement; any duty to allow or carry out inspection, entry, or monitoring activities; or any regulation or order issued by the permitting authority pursuant to this part are violations of the Act and are subject to full Federal enforcement authorities available under the Act.

Attachment A

Phase II Acid Rain Permit Renewal